

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

HI-LEX CONTROLS INCORPORATED,
HI-LEX AMERICA, INCORPORATED and
HI-LEX CORPORATION HEALTH AND
WELFARE PLAN,

Plaintiffs,

CASE NUMBER: 11-12557
HONORABLE VICTORIA A. ROBERTS

v.

BLUE CROSS AND BLUE SHIELD OF
MICHIGAN,

Defendant.

consolidated with

BORROUGHS CORPORATION and
BORROUGHS CORPORATION
EMPLOYEE BENEFIT PLAN,

Plaintiffs,

CASE NUMBER: 11-12565
HONORABLE VICTORIA A. ROBERTS

v.

BLUE CROSS AND BLUE SHIELD OF
MICHIGAN,

Defendant.

consolidated with

IRONWORKERS LOCAL 340 HEALTH
CARE FUND and IRONWORKERS
LOCAL 340 HEALTH CARE PLAN,

Plaintiffs,

CASE NUMBER: 11-12796
HONORABLE VICTORIA A. ROBERTS

v.

BLUE CROSS AND BLUE SHIELD OF
MICHIGAN,

Defendant.

ORDER

This matter is before the Court on Defendant Blue Cross and Blue Shield of Michigan's Motion Pursuant to Federal Rules 12(B)(6) & (F) to Dismiss State Law Claims and Strike Jury Demand. (Doc. # 11). Defendant says Plaintiffs' state and common law claims are preempted by the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. § 1001 *et seq.* Further, it says the ERISA claims must be tried to the Court because neither ERISA nor the Seventh Amendment guarantees the right to trial by jury of breach of fiduciary duty claims under ERISA.

Based on the Complaint and parties' briefs, the Court GRANTS DEFENDANT'S IN PART. Plaintiffs' state and common law claims are **DISMISSED WITHOUT PREJUDICE**. However, discovery can be conducted on these claims. At the close of discovery Plaintiffs may be able to reinstate them without regard to any statute of limitations concerns.

The Court **HOLDS IN ABEYANCE** Defendant's request to strike Plaintiffs' jury demand.

IT IS ORDERED.

S/Victoria A. Roberts
Victoria A. Roberts
United States District Judge

Dated: September 21, 2011

The undersigned certifies that a copy of this document was served on the attorneys of record by electronic means or U.S. Mail on September 21, 2011.

S/Linda Vertriest _____
Deputy Clerk